

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

CASSANDRA LOVE

PLAINTIFF

VS.

CIVIL ACTION NO. 1:18cv181-GHD-DAS

AARON'S, INC.

DEFENDANT

NOTICE OF REMOVAL

TO: Cassandra Love
c/o Yancy B. Burns, Esq.
Burns & Associates, PLLC
P. O. Box 16409
Jackson, MS 39236-6409

Yancy B. Burns, Esq.
Burns & Associates, PLLC
P. O. Box 16409
Jackson, MS 39236-6409

Honorable Kim T. Ming
Circuit Clerk, Winston County
P. O. Drawer 785
Louisville, MS 39339

You will please take notice that this Notice of Removal and the exhibits attached hereto have been filed this day for and on behalf of Aaron's, Inc. in the United States District Court for the Northern District of Mississippi, Aberdeen Division. You are hereby served with a copy of this Notice of Removal of said cause to the United States District Court from the Circuit Court of Winston County, Mississippi, upon the grounds stated herein. Pursuant to said removal, you will proceed no further in said Circuit Court of Winston County, Mississippi, and you will be mindful of the provisions of Title 28 U.S.C. § 1441, *et seq.* Please take notice hereof and govern yourselves

accordingly. As its short and plain statement of the grounds for removal of this civil action, Aaron's, Inc. would show the following:

1.

There is now pending in the Circuit Court of Winston County, Mississippi, a certain civil action styled "*Cassandra Love v. Aaron's, Inc. and XYZ Corporations 1-10*," being Civil Action No. 2018-099-CVL on the docket of said court.

2.

Plaintiff originally filed his Complaint in the Circuit Court of Winston County, Mississippi, against Aaron's, Inc. on June 7, 2018. Aaron's, Inc. was served with a copy of the Complaint on or about July 11, 2018. The Complaint did not plead a specific amount in controversy. Aaron's, Inc. timely served its Answer and Defenses to the Complaint on July 27, 2018. On September 13, 2018, plaintiff's counsel emailed counsel for Aaron's, Inc. and advised that plaintiff was seeking monetary damages in excess of \$75,000.00. This email constitutes "other paper" which warrants removal under 28 U.S.C. § 1446. This email is attached hereto as Exhibit "A." Accordingly, the thirty day period within which to file for and obtain removal of said civil action has not yet expired.

3.

Aaron's, Inc. files and presents its Notice of Removal within thirty days after receipt by it, through service or otherwise, of a copy of the "other paper" as required by 28 U.S.C. § 1446(b)(3). This Notice of Removal is also filed within one year of the commencement of the action as required by 28 U.S.C. § 1446(c).

4.

Pursuant to 28 U.S.C. § 1446(a), Aaron's, Inc. attaches hereto, as Exhibit "B," a copy of the entire state court file in Civil Action No. 2018-099-CVL in the Circuit Court of Winston County, Mississippi, and asks that said exhibit be considered a part hereof the same as though copied in words and figures in full.

5.

The United States District Court for the Northern District of Mississippi, Aberdeen Division, embraces Winston County, which is the county in which the state court action is now pending. Therefore, removal to this Court is proper pursuant to 28 U.S.C. §§ 104(b)(1) and 1441(a).

6.

No previous application has been made for the relief requested herein.

7.

Pursuant to 28 U.S.C. § 1446(d), all adverse parties are being provided with a written Notice of Removal and a copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Winston County, Mississippi.

8.

This is a tort action arising out of an alleged trip or slip and fall on a box by plaintiff at her house while employees of Aaron's, Inc. were assembling a bed.

9.

As set forth below, this Court has subject matter jurisdiction over the state court action pursuant to 28 U.S.C. §§ 1332 and 1441 because it is a civil action in which the amount in

controversy exceeds the sum of \$75,000.00 exclusive of costs and interest, and there is complete diversity of citizenship between the plaintiff and the defendant.

COMPLETE DIVERSITY OF CITIZENSHIP

10.

Plaintiff alleged in the Complaint that she is an adult resident citizen of Winston County, Mississippi. Defendant avers that plaintiff is at the time of the filing of this Notice of Removal, still a citizen of Winston County, Mississippi.

11.

Defendant is a Georgia corporation with its principal place of business in Georgia. There is, therefore, complete diversity of citizenship between defendant and the plaintiff.

AMOUNT IN CONTROVERSY EXCEEDS \$75,000.00

12.

Although the Complaint does not contain a specific dollar demand, plaintiff's counsel emailed defendant's counsel on September 13, 2018 and advised that plaintiff was seeking more than \$75,000.00. Thus, the amount in controversy exceeds the sum and value of \$75,000.00, exclusive of interest and costs.

13.

Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of defendant's rights to assert any defense or affirmative matter available under Rule 12 of the Mississippi or Federal Rules of Civil Procedure, or any state or federal statute.

WHEREFORE, PREMISES CONSIDERED, defendant prays that this Notice of Removal and exhibits thereto be received and filed and that the said Circuit Court of Winston County,

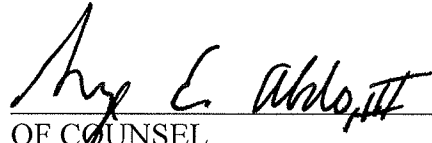
Mississippi, proceed no further herein. Defendant further prays for all necessary writs to bring before this Honorable Court all records and proceedings in the said Circuit Court of Winston County, Mississippi, and defendant prays for such other, further, special and general relief as it may be entitled to receive.

This the 26th day of September, 2018.

Respectfully submitted,

AARON'S, INC.

BY:


OF COUNSEL

GEORGE E. ABDO, III - BAR # 9782
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CERTIFICATE OF SERVICE

I, George E. Abdo, III, attorney for defendant herein, hereby certify that I have this day filed the original of the above and foregoing Notice of Removal and exhibit thereto in the United States District Court for the Northern District of Mississippi, Aberdeen Division, and that upon the filing of the original Notice and exhibit hereto, I have served a true and correct copy of the said notice and exhibit on:


Cassandra Love
c/o Yancy B. Burns, Esq.
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Honorable Kim T. Ming
Circuit Clerk, Winston County
P. O. Drawer 785
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all to effectuate the removal of a civil action entitled, "*Cassandra Love v. Aaron's, Inc. and XYZ Corporations 1-10*," being Civil Action No. 2018-099-CVL on the docket of said Circuit Court of Winston County, Mississippi, to the United States District Court for the Northern District of Mississippi, Aberdeen Division, pursuant to the statutes and rules in such cases made and provided.

WITNESS MY SIGNATURE, this the 26th day of September, 2018.



GEORGE E. ABDO, III
Attorney for Defendant